

JOURNAL OF THE SENATE

EIGHTY-EIGHTH SESSION

SEVENTEENTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Monday, February 4, 2013

The Senate convened at 2:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Rev. Don Block, followed by the Pledge of Allegiance led by Senate page Dylan Kirchmeier.

Roll Call: All members present.

APPROVAL OF THE JOURNAL

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the sixteenth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Corey Brown, Chair

Which motion prevailed.

1 The oath of office was administered by the President to the following named persons:

2 Pages -- Savanna Anderson, Raegan Arnoldy, Daniel Keller, Dylan Kirchmeier, KayDe
3 Roth, Logan Welker, Nolan Welker

4 Which was subscribed to and placed on file with the Secretary of State.

5 **COMMUNICATIONS AND PETITIONS**

6 February 1, 2013

7 Mr. President and Members of the Senate:

8 I have the honor to inform you that on February 1, 2013, I approved Senate Bills 46, 54,
9 and 63, and the same have been deposited in the office of the Secretary of State.

10 Respectfully submitted,
11 Dennis Daugaard
12 Governor

13 January 31, 2013

14 The Honorable Matt Michels
15 President of the Senate
16 500 East Capitol Avenue
17 Pierre, SD 57501-5070

18 Dear Mr. President and Members of the Senate:

19 Pursuant to the provisions of South Dakota Codified Law 33-1-10 and 33-1-10.1 and
20 subject to your consent, I have the honor to inform you that I have appointed Craig D. Johnson,
21 Pennington County, Rapid City, South Dakota, as the Assistant Adjutant General, Army.

22 This appointment was effective October 1, 2012.

23 Sincerely,
24 Dennis Daugaard
25 Governor

26 The President announced the referral of the appointment to the Committee on State Affairs.

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1 Also MR. PRESIDENT:

2 The Committee on Local Government respectfully reports that it has had under
3 consideration SB 224 and returns the same with the recommendation that said bill do pass.

4 Also MR. PRESIDENT:

5 The Committee on Local Government respectfully reports that it has had under
6 consideration SB 201 which was tabled.

7 Respectfully submitted,
8 Mark Kirkeby, Chair

9 Also MR. PRESIDENT:

10 The Committee on Taxation respectfully reports that it has had under consideration SJR 2
11 and returns the same with the recommendation that said resolution be amended as follows:

12 j2fa

13 On page 1, line 7, of the printed resolution, after "XI" delete ", sections 13 and 14 and
14 Article XXIII, section 1".

15 On page 2, delete lines 15 to 24, inclusive, and insert:

16 "Section 4. That Article XI of the Constitution of the State of South Dakota, be amended
17 by adding a NEW SECTION to read as follows:

18 § 16. Amendments to this Constitution that have the effect of increasing the rate of taxation
19 by the state, or that have the effect of imposing any new tax, or that have the effect of extending
20 the imposition of a tax beyond the defined period of time for which it was imposed, or that
21 further amend this section of the Constitution, may be proposed by initiative or by a majority
22 vote of all members of each house of the Legislature. An amendment proposed by initiative
23 shall require a petition signed by qualified voters equal in number to at least ten percent of the
24 total votes cast for Governor in the last gubernatorial election. The petition containing the text
25 of the proposed amendment and the names and addresses of its sponsors shall be filed at least
26 one year before the next general election at which the proposed amendment is submitted to the
27 voters. A proposed amendment may amend one or more articles and related subject matter in
28 other articles as necessary to accomplish the objectives of the amendment.

29 Any amendment to this Constitution that has the effect of increasing the rate of taxation by
30 the state, or that has the effect of imposing any new tax, or that has the effect of extending the
31 imposition of a tax beyond the defined period of time for which it was imposed, or that further
32 amends this section of the Constitution, is deemed to be approved by the people only by consent
33 of a two-thirds vote of the people."

1 On page 3, delete lines 1 to 5, inclusive.

2 J2fta

3 On page 1 of the printed resolution, delete line 2, and insert "amendments to Article XI of
4 the".

5 And that as so amended said resolution do pass.

6 Also MR. PRESIDENT:

7 The Committee on Taxation respectfully reports that it has had under consideration SB 121
8 and returns the same with the recommendation that said bill be amended as follows:

9 121ua

10 On page 3 of the printed bill, delete lines 4 to 8, inclusive.

11 121fta

12 On page 1, line 2, of the printed bill, delete everything after "Corporation" and insert ".".

13 On page 1, delete line 3.

14 And that as so amended said bill do pass and be placed on the consent calendar.

15 Respectfully submitted,
16 Ryan Maher, Chair

17 Also MR. PRESIDENT:

18 The Committee on Transportation respectfully reports that it has had under consideration
19 SB 105, 106, and 107 and returns the same with the recommendation that said bills do pass.

20 Also MR. PRESIDENT:

21 The Committee on Transportation respectfully reports that it has had under consideration
22 SB 216 and returns the same with the recommendation that said bill be amended as follows:

23 216fa

24 On the printed bill, delete everything after the enacting clause and insert:

25 "Section 1. That chapter 32-12 be amended by adding thereto a NEW SECTION to read
26 as follows:

1 Also MR. PRESIDENT:

2 The Committee on Health and Human Services respectfully reports that it has had under
3 consideration SB 209 and returns the same with the recommendation that said bill be amended
4 as follows:

5 209ja

6 On page 1, line 7, delete "six" and insert "twelve".

7 On page 3 of the printed bill, delete lines 2 to 14, inclusive.

8 And that as so amended said bill do pass.

9 Respectfully submitted,
10 Jean M. Hunhoff, Chair

11 **MESSAGES FROM THE HOUSE**

12 MR. PRESIDENT:

13 I have the honor to inform your honorable body that the House has concurred in Senate
14 amendments to HCR 1001.

15 Also MR. PRESIDENT:

16 I have the honor to transmit herewith HB 1049 and 1144 which have passed the House and
17 your favorable consideration is respectfully requested.

18 Also MR. PRESIDENT:

19 I have the honor to return herewith SB 38, 58, and 70 which have passed the House without
20 change.

21 Respectfully,
22 Arlene Kvislen, Chief Clerk

23 **MOTIONS AND RESOLUTIONS**

24 Sen. Brown moved that SB 76 be referred to the Committee on Education.

25 Which motion prevailed.

1 **CONSIDERATION OF REPORTS OF COMMITTEES**

2 Sen. Olson moved that the reports of the Standing Committees on
3 Commerce and Energy on SB 119 as found on page 287 of the Senate Journal; also
4 Judiciary on SB 147 as found on page 288 of the Senate Journal be adopted.
5 Which motion prevailed.

6
7 **FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

8 HB 1049: FOR AN ACT ENTITLED, An Act to transfer the value added agriculture
9 subfund from the Governor's Office of Economic Development to the Department of
10 Agriculture.

11 Was read the first time and referred to the Committee on State Affairs.

12 HB 1144: FOR AN ACT ENTITLED, An Act to permit the euthanization of deer that have
13 been seriously injured in motor vehicle accidents.

14 Was read the first time and referred to the Committee on Transportation.

15 **CONSIDERATION OF CONSENT EXECUTIVE APPOINTMENTS**

16 The Senate proceeded to the consideration of the executive reappointment of Patrick L.
17 Weber of Clay County, Vermillion, South Dakota, to the State Board of Regents.

18 The question being "Does the Senate advise and consent to the executive reappointment
19 of Patrick L. Weber pursuant to the executive message as found on page 218 of the Senate
20 Journal?"

21 And the roll being called:

22 Yeas 35, Nays 0, Excused 0, Absent 0

23 Yeas:
24 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
25 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
26 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;
27 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

1 So the question having received an affirmative vote of a majority of the members-elect, the
2 President declared the reappointment confirmed.

3 **SECOND READING OF CONSENT CALENDAR ITEMS**

4 SB 80: FOR AN ACT ENTITLED, An Act to reinstate certain provisions repealed in the
5 Eighty-seventh Legislative Session regarding the accounting for federal impact aid.

6 Was read the second time.

7 The question being "Shall SB 80 pass?"

8 And the roll being called:

9 Yeas 35, Nays 0, Excused 0, Absent 0

10 Yeas:

11 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
12 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
13 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;
14 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

15 So the bill having received an affirmative vote of a majority of the members-elect, the
16 President declared the bill passed and the title was agreed to.

17 HB 1012: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the
18 students eligible for resident tuition benefits at universities controlled by the Board of Regents.

19 Was read the second time.

20 The question being "Shall HB 1012 pass as amended?"

21 And the roll being called:

22 Yeas 35, Nays 0, Excused 0, Absent 0

23 Yeas:

24 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
25 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
26 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;
27 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

28 So the bill having received an affirmative vote of a majority of the members-elect, the
29 President declared the bill passed and the title was agreed to.

1 HB 1064: FOR AN ACT ENTITLED, An Act to provide for certain methods of
2 disbursement for school district flexible spending accounts.

3 Was read the second time.

4 The question being "Shall HB 1064 pass?"

5 And the roll being called:

6 Yeas 35, Nays 0, Excused 0, Absent 0

7 Yeas:

8 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
9 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
10 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;
11 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

12 So the bill having received an affirmative vote of a majority of the members-elect, the
13 President declared the bill passed and the title was agreed to.

14 HB 1051: FOR AN ACT ENTITLED, An Act to revise certain provisions related to the
15 director's orders to hazardous insurers.

16 Was read the second time.

17 The question being "Shall HB 1051 pass?"

18 And the roll being called:

19 Yeas 35, Nays 0, Excused 0, Absent 0

20 Yeas:

21 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
22 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
23 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;
24 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

25 So the bill having received an affirmative vote of a majority of the members-elect, the
26 President declared the bill passed and the title was agreed to.

27 HB 1054: FOR AN ACT ENTITLED, An Act to repeal certain rule-making authority for
28 the director of insurance.

29 Was read the second time.

30 The question being "Shall HB 1054 pass?"

1 And the roll being called:

2 Yeas 35, Nays 0, Excused 0, Absent 0

3 Yeas:

4 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
5 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
6 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rempelberg; Rave; Rhoden;
7 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

8 So the bill having received an affirmative vote of a majority of the members-elect, the
9 President declared the bill passed and the title was agreed to.

10 **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

11 SB 56: FOR AN ACT ENTITLED, An Act to define a credit card bank and to revise
12 certain provisions regarding the distribution of the bank franchise tax.

13 Was read the second time.

14 56fb

15 Sen. Maher moved that SB 56 be amended as follows:

16 On page 1 of the printed bill, delete lines 6 to 8, inclusive, and insert:

17 "Credit card bank," any financial institution that is subject to the tax imposed by this
18 chapter that:

19 (a) Derives the majority of its income apportioned to this state from the use of
20 credit cards, including income derived from fees, transactional costs, interest,
21 and penalties, and also has total assets over ten billion dollars; or

22 (b) Was subject to the tax imposed by this chapter before July 1, 2013, and
23 ninety-five percent of its tax receipts were historically distributed to the state
24 general fund pursuant to § 10-43-76 before July 1, 2013."

25 Which motion prevailed.

26 The question being "Shall SB 56 pass as amended?"

27 And the roll being called:

28 Yeas 33, Nays 1, Excused 1, Absent 0

1 Yeas:

2 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
3 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Maher; Monroe; Novstrup
4 (Al); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton; Tidemann;
5 Tieszen; Van Gerpen; Vehle; Welke; White

6 Nays:

7 Lucas

8 Excused:

9 Olson (Russell)

10 So the bill having received an affirmative vote of a majority of the members-elect, the
11 President declared the bill passed and the title was agreed to.

12 SB 139: FOR AN ACT ENTITLED, An Act to regulate certain market activity in a health
13 exchange.

14 Was read the second time.

15 139jb

16 Sen. Holien moved that SB 139 be amended as follows:

17 On page 2 of the Senate Commerce and Energy Committee engrossed bill, delete lines 11
18 to 17, inclusive.

19 Which motion prevailed.

20 The question being "Shall SB 139 pass as amended?"

21 And the roll being called:

22 Yeas 35, Nays 0, Excused 0, Absent 0

23 Yeas:

24 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
25 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
26 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;
27 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

28 So the bill having received an affirmative vote of a majority of the members-elect, the
29 President declared the bill passed and the title was agreed to.

30 SB 161: FOR AN ACT ENTITLED, An Act to authorize certain persons to perform
31 limited equine dentistry procedures.

1 Was read the second time.

2 The question being "Shall SB 161 pass as amended?"

3 And the roll being called:

4 Yeas 15, Nays 20, Excused 0, Absent 0

5 Yeas:

6 Adelstein; Begalka; Bradford; Buhl; Frerichs; Jensen; Johnston; Kirkeby; Krebs; Maher;
7 Monroe; Rampelberg; Rhoden; Sutton; Vehle

8 Nays:

9 Brown; Ewing; Heineman (Phyllis); Holien; Hunhoff (Jean); Jones; Lederman; Lucas; Novstrup
10 (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rave; Soholt; Tidemann; Tieszen; Van
11 Gerpen; Welke; White

12 So the bill not having received an affirmative vote of a two-thirds majority of the members-
13 elect, the President declared the bill lost.

14 Sen. Rhoden announced his intention to reconsider the vote by which SB 161 lost.

15 SB 145: FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the
16 content of annual property tax bill.

17 Was read the second time.

18 145fb

19 Sen. Novstrup moved that SB 145 be amended as follows:

20 On page 1 of the printed bill, delete lines 7 and 8, and insert "sent to ~~taxpayers may~~ each
21 taxpayer shall reflect the breakdown of ~~the tax by tax levies~~ each levy and the tax attributable
22 to the levy and the tax bill shall also show the total levy and total tax amount for each taxing
23 district. A definition shall".

24 On page 2, line 3, overstrike everything after ".".

25 On page 2, overstrike line 4.

26 On page 2, line 5, overstrike everything before "The".

27 Which motion prevailed.

1 The question being "Shall SB 145 pass as amended?"

2 And the roll being called:

3 Yeas 33, Nays 2, Excused 0, Absent 0

4 Yeas:

5 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
6 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Maher; Monroe; Novstrup
7 (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt;
8 Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

9 Nays:

10 Lucas; Sutton

11 So the bill having received an affirmative vote of a majority of the members-elect, the
12 President declared the bill passed and the title was agreed to.

13 SB 117: FOR AN ACT ENTITLED, An Act to provide for an expedited endorsement of
14 certain licenses, certificates, registrations, and permits for spouses of active duty military
15 personnel.

16 Was read the second time.

17 The question being "Shall SB 117 pass?"

18 And the roll being called:

19 Yeas 35, Nays 0, Excused 0, Absent 0

20 Yeas:

21 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
22 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
23 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;
24 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

25 So the bill having received an affirmative vote of a two-thirds majority of the members-
26 elect, the President declared the bill passed and the title was agreed to.

27 SB 146: FOR AN ACT ENTITLED, An Act to provide for the collection of certain gaming
28 taxes, penalties, and interest and to declare an emergency.

29 Was read the second time.

30 The question being "Shall SB 146 pass?"

1 And the roll being called:

2 Yeas 35, Nays 0, Excused 0, Absent 0

3 Yeas:

4 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
5 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
6 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;
7 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

8 So the bill having received an affirmative vote of a two-thirds majority of the members-
9 elect, the President declared the bill passed and the title was agreed to.

10 SB 223: FOR AN ACT ENTITLED, An Act to clarify the open meetings requirement as
11 applied to the Public Utilities Commission.

12 Was read the second time.

13 The question being "Shall SB 223 pass?"

14 And the roll being called:

15 Yeas 35, Nays 0, Excused 0, Absent 0

16 Yeas:

17 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
18 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
19 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;
20 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

21 So the bill having received an affirmative vote of a majority of the members-elect, the
22 President declared the bill passed and the title was agreed to.

23 SB 168: FOR AN ACT ENTITLED, An Act to require that newborns be screened for
24 congenital heart defects.

25 Was read the second time.

26 The question being "Shall SB 168 pass?"

27 And the roll being called:

28 Yeas 32, Nays 3, Excused 0, Absent 0

1 Yeas:

2 Adelstein; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff
3 (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Olson (Russell);
4 Omdahl; Otten (Ernie); Peters; Rempelberg; Rave; Rhoden; Soholt; Sutton; Tidemann; Tieszen;
5 Van Gerpen; Vehle; Welke; White

6 Nays:

7 Begalka; Monroe; Novstrup (Al)

8 So the bill having received an affirmative vote of a majority of the members-elect, the
9 President declared the bill passed and the title was agreed to.

10 SB 8: FOR AN ACT ENTITLED, An Act to authorize the South Dakota Building
11 Authority and the Board of Regents to finance, design, construct, furnish, and equip a sports
12 performance enhancement facility arena and a new outdoor track and soccer complex at the
13 University of South Dakota and to make an appropriation therefor.

14 Was read the second time.

15 The question being "Shall SB 8 pass?"

16 And the roll being called:

17 Yeas 32, Nays 3, Excused 0, Absent 0

18 Yeas:

19 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
20 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Monroe; Novstrup
21 (Al); Olson (Russell); Peters; Rempelberg; Rave; Rhoden; Soholt; Sutton; Tidemann; Tieszen;
22 Van Gerpen; Vehle; Welke; White

23 Nays:

24 Maher; Omdahl; Otten (Ernie)

25 So the bill having received an affirmative vote of a two-thirds majority of the members-
26 elect, the President declared the bill passed and the title was agreed to.

27 SB 9: FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to accept the
28 donation of land from the University of South Dakota Foundation for the use and benefit of the
29 University of South Dakota.

30 Was read the second time.

31 The question being "Shall SB 9 pass?"

32 And the roll being called:

1 Yeas 35, Nays 0, Excused 0, Absent 0

2 Yeas:

3 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
4 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
5 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;
6 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

7 So the bill having received an affirmative vote of a majority of the members-elect, the
8 President declared the bill passed and the title was agreed to.

9 SB 29: FOR AN ACT ENTITLED, An Act to authorize the Department of the Military to
10 purchase land for use by the South Dakota Army National Guard, to make an appropriation
11 therefor, and to declare an emergency.

12 Was read the second time.

13 The question being "Shall SB 29 pass?"

14 And the roll being called:

15 Yeas 34, Nays 1, Excused 0, Absent 0

16 Yeas:

17 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
18 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Monroe; Novstrup
19 (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt;
20 Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

21 Nays:

22 Maher

23 So the bill having received an affirmative vote of a two-thirds majority of the members-
24 elect, the President declared the bill passed and the title was agreed to.

25 SB 30: FOR AN ACT ENTITLED, An Act to authorize the Department of the Military to
26 construct a motor vehicle storage building in Sioux Falls, to make an appropriation therefor, and
27 to declare an emergency.

28 Was read the second time.

29 The question being "Shall SB 30 pass?"

30 And the roll being called:

31 Yeas 34, Nays 1, Excused 0, Absent 0

1 Yeas:

2 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
3 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Monroe; Novstrup
4 (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt;
5 Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

6 Nays:

7 Maher

8 So the bill having received an affirmative vote of a two-thirds majority of the members-
9 elect, the President declared the bill passed and the title was agreed to.

10 Sen. Olson moved that SB 239, 159, and 174 and HB 1024, 1025, 1019, 1020, and 1091
11 be deferred to Tuesday, February 5, the 18th legislative day.

12 Which motion prevailed.

13 There being no objection, the Senate reverted to Order of Business No. 5.

14 **REPORTS OF STANDING COMMITTEES**

15 MR. PRESIDENT:

16 The Committee on State Affairs respectfully reports that it has had under consideration
17 SB 185 and 200 and returns the same with the recommendation that said bills do pass.

18 Also MR. PRESIDENT:

19 The Committee on State Affairs respectfully reports that it has had under consideration
20 SB 125 and returns the same with the recommendation that said bill be amended as follows:

21 125ja

22 On the printed bill, delete everything after the enacting clause and insert:

23 "Section 1. That § 25-5-7.1 be amended to read as follows:

24 25-5-7.1. In any custody dispute between parents, the court may order joint legal custody
25 so that both parents retain full parental rights and responsibilities with respect to their child and
26 so that both parents must confer on, and participate in, major decisions affecting the welfare of
27 the child. In ordering joint legal custody, the court may consider the expressed desires of the
28 parents and may grant to one party the ultimate responsibility over specific aspects of the child's
29 welfare or may divide those aspects between the parties based on the best interest of the child.

1 If it appears to the court to be in the best interest of the child, the court may order, or the parties
2 may agree, how any such responsibility shall be divided. Such areas of responsibility may
3 include ~~the child's primary physical residence~~, child care, education, extracurricular activities,
4 medical and dental care, religious instruction, the child's use of motor vehicles, and any other
5 responsibilities which the court finds unique to a particular family or in the best interest of the
6 child. ~~If the court awards joint legal custody, it may also order joint physical custody in such~~
7 ~~proportions as are in the best interests of the child, notwithstanding the objection of either~~
8 ~~parent.~~

9 Section 2. That chapter 25-5 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 If joint legal custody is awarded, pursuant to § 25-5-7.1, there is a rebuttable presumption
12 that both parents have joint physical custody of their child. Joint physical custody of their child
13 is defined as equal time sharing. The burden of overcoming the presumption rests on the parent
14 challenging the presumption. The presumption may be overcome by demonstrating that joint
15 physical custody would not be in the best interest of the child, that the distance between the two
16 parents' residences makes joint physical custody reasonably impractical, or by one parent
17 waiving the presumption. The party challenging the presumption must overcome the
18 presumption by the greater convincing force of the evidence. Upon request by either parent, the
19 court shall hold a hearing at which the parties may introduce evidence. The court shall issue
20 findings of fact and conclusions of law upon request by either parent. The court shall require the
21 parents to prepare and submit a parenting plan to the court reflecting parental preferences and
22 agreement on the matters of substance concerning the child's education, upbringing, religious
23 training, medical, and dental care. The parents shall share decision-making authority and
24 responsibility as to the important decisions affecting the child's welfare."

25 And that as so amended said bill do pass.

26 Also MR. PRESIDENT:

27 The Committee on State Affairs respectfully reports that it has had under consideration
28 SB 153 and returns the same with the recommendation that said bill be amended as follows:

29 153ta

30 On page 7, line 6, of the printed bill, delete "wetlands, and wildlife" and insert "and
31 wetlands."

32 On page 7, delete line 7.

33 On page 8, line 15, delete everything after "district."

34 On page 8, delete lines 16 and 17.

On page 13, line 21, before "Only" insert "For purposes of this chapter, the term, eligible voter, has the meaning specified in this section."

And returns the same without recommendation.

Also MR. PRESIDENT:

The Committee on State Affairs respectfully reports that it has had under consideration SB 225 which was deferred to the 41st Legislative Day.

Respectfully submitted,
Larry Rhoden, Chair

SIGNING OF BILLS

The President publicly read the title to

SB 38: FOR AN ACT ENTITLED, An Act to increase the penalty for sexual acts between correction facility employees and juvenile detainees.

SB 58: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the electronic filing of motor fuel tax reports and the electronic remittance of motor fuel tax.

SB 70: FOR AN ACT ENTITLED, An Act to improve public safety.

HB 1032: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the money, clothing, and transportation furnished inmates released from the Department of Corrections.

HB 1055: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding unemployment insurance employer charges and claimant misrepresentation regarding benefit overpayments and to correct references to certain provisions pertaining to unemployment insurance.

And signed the same in the presence of the Senate.

Sen. Sutton moved that the Senate do now adjourn, which motion prevailed and at 4:00 p.m. the Senate adjourned.

Jeannette Schipper, Secretary